

REMARKS

The Applicant has carefully reviewed and considered the Examiner's Action mailed January 27, 2005. Reconsideration is respectfully requested in view of the comments set forth below.

No claim amendments are made in this Request for Reconsideration. Accordingly, claims 1-16 are pending in the present application.

Claims 1-8 and 10-16 were rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,466,886 to Lengyel et al. (hereinafter referred to as "Lengyel") as explained in paragraph 3 spanning pages 2-5 of the Action. This rejection is respectfully traversed.

As explained in the Amendment filed October 18, 2004, the claimed invention is directed to an electrical fitting for installation of electrical systems in poured concrete and a system for the installation of electrical boxes in poured concrete where the claimed **fitting holds an electrical box flush during the pouring of concrete**. This is achieved by an electrical fitting for installation of electrical systems in poured concrete, as recited in claim 1, which includes 1) a relatively **flat body** of material (*e.g.* 6 in Applicant's Figures) having an opening (*e.g.* 9 in Applicant's Figures) for receiving an electrical conduit; 2) a number of equally spaced legs projecting (*e.g.* 24 in Applicant's Figures) from a side of the body, which is **adapted to face a form wall opposing another form wall onto which an electrical box is mounted flush**; and 3) a **tip** (*e.g.* 26 in Applicant's Figures) **disposed on a top of each leg wherein the tip grips the form wall and provides a sturdy and solid base that holds an electrical box** (*e.g.* 2 in Applicant's Figures) **and a conduit** (*e.g.* 4 in Applicant's Figures) **in position during the pouring**

of concrete wherein the length of each spaced leg is designed to allow concrete to flow between the body and the form wall.

To the contrary, Lengyel is directed to an electrical outlet **box** assembly (10) for power and communication wires. The box assembly (10) of Lengyel has a cylindrical housing (12) to which an electrical receptacle (18) is coupled. It is the Action's position that housing 12 in Figure 7 of Lengyel meets the recitation of "a relatively flat body of material having an opening" in claims 1 and 8 of the present application. Applicant respectfully disagrees.

In column 4, lines 36-39 of Lengyel, housing 12 is described as being "a floor **box** having a base portion 34, a substantially cylindrical side wall portion 36 fixedly coupled to base portion 34 to form a cylindrical box with an open top end 38." All of the embodiments disclosed by Lengyel disclose the same **box** structure. Lengyel does not disclose that housing 12 can be a relatively flat body. Nor does Lengyel describe any embodiment where the housing does not have a substantial height. Thus, it is submitted that Lengyel only discloses a housing with a substantially cylindrical side wall portion, which forms a box. In that the cylindrical side wall portion 36 of Lengyel's housing 12 has a significant height, in order to receive an electrical receptacle, Lengyel fails to disclose "a relatively flat body of material having an opening", as recited in claims 1 and 8 of the present application.

Lengyel also fails to disclose the recited "number of equally spaced legs projecting from a side of the body" in claims 1 and 8 of the present application. According to Applicant's claimed invention, the recited legs project from a side of the body, which is **adapted to face a form wall opposing another form wall onto which**

an electrical box is mounted flush. Thus, even though Lengyel's side wall portion 36 had four equally circumferentially spaced apart mounting flanges 40 with mounting holes 42 (column 4, lines 46-48 and Figure 7 of Lengyel), the mounting flanges **do not** project from a side of the cylindrical housing 12, which is adapted to face a **form wall opposing another form wall** onto which an electrical box is mounted flush, as claimed by Applicant. Lengyel's structure is not adapted to or capable of having side wall 36 face a form wall opposing another form wall onto which an electrical box is mounted flush.

The mounting flanges 40 disclosed by Lengyel are mounted on one side of the cylindrical housing 12 and an electrical receptacle 18 is disposed on the other side of the cylindrical housing. Lengyel further discloses providing fasteners 41, such as screws or nails, to fixedly couple the housing or floor box 12 to a surface 43, such as a subfloor or substructure, prior to the pouring of a concrete **floor**. Thus, Lengyel discloses that mounting flanges 40 are adapted to be fixed to subfloor and is silent as to length of a mounting flange as the concrete is not poured between the housing and a form wall. Independent claim 1 recites "wherein the length of each spaced leg is designed to allow concrete to flow between the body and the form wall." In the electrical outlet box assembly disclosed by Lengyel, the mounting flange is used to fasten the box (cylindrical housing 12 of Lengyel) to a subfloor. Consequently, the structure disclosed by Lengyel is not capable of allowing concrete to flow between the housing and the subfloor as the housing is fastened to the subfloor and then concrete is poured around the housing, as shown in Figure 2 of Lengyel. That is, the mounting flange is attached to the subfloor via a fastener and its length does not matter as the design of Lengyel does not have a mounting flange with a tip so that concrete can flow between the housing and a subfloor.

Lengyel also fails to disclose the recited “tip disposed on a top of each leg wherein the tip grips the form wall and provides a sturdy and solid base that holds an electrical box and a conduit in position during the pouring of concrete”, as recited in claims 1 and 8 of the present invention. The Action baldly concludes “a tip (figure 7) disposed on a top of each leg 40 wherein the tip (figure 7) grips the form wall”. It is respectfully submitted that Lengyel does not disclose a tip on top of each mounting flange. Nor does Lengyel disclose structure, such as a form wall, that any portion of the mounting flange can grip to provide a sturdy and solid base that holds an electrical box and a conduit in position during the pouring of concrete. The flange may have an end (portion of flange furthest from the housing 12); but this is not a tip that can grip as recited in claims 1 and 8 of the present invention. Lengyel clearly discloses that fasteners 41, such as screws or nails, fixedly couple the housing to the floor box or housing 12 prior to the pouring the concrete. That is, Lengyel discloses that a fastener grips the subfloor prior to the pouring of the concrete. The fastener 41 is not a tip of the mounting flange as mounting holes **within** the flange receive the fastener (column 4, lines 46-52 of Lengyel).

Consequently, Lengyel cannot anticipate the claimed invention because it fails to disclose each and every claimed feature recited in independent claims 1 and 8. In particular, Lengyel is missing 1) “a relatively **flat body** of material having an opening for receiving an electrical conduit”; 2) “a number of equally spaced legs projecting from a side of the body, which is **adapted to face a form wall opposing another form wall onto which an electrical box is mounted flush**”; and 3) “**a tip disposed on a top of each leg wherein the tip grips the form wall and provides a sturdy and solid base**”

that holds an electrical box and a conduit in position during the pouring of concrete” (Claims 1 and 8, emphasis provided). In addition, Lengyel does not disclose that the length of each spaced leg is of a size to allow concrete to flow between the body and the form wall. Thus, Lengyel is missing a number of the recited features of the claimed invention and cannot anticipate independent claim 1 and its dependent claims 2-7.

In addition to the reasons above, Lengyel also cannot independent claim 8 and its dependent claims 10-16 because nowhere does Lengyel disclose a conduit attached between a relatively flat body of an electrical fitting and an electrical box, as required by claim 8. The Action’s position is that “conduit 48 ... and electrical fitting 54” meet the claim limitations recited in claim 8. Instead, Lengyel discloses conduits 54 that extend through hubs or sockets 48 extending from base portion 34 of cylindrical housing 12 to reach an electrical box supported by the housing (page 3, lines 15-19 of the January 27, 2004 Action. The recited electrical fitting has the structure argued above and cannot be met by a hub or socket 48 or conduit 54. Consequently, Applicant disagrees with the Action’s characterization of Lengyel.

Lengyel also is silent as to the length of the conduit. According to the recited invention of claim 8, the length of the conduit together with the electrical box and electrical fitting approximately equals the width between the form walls of the concrete structure. In that Lengyel discloses an electrical outlet box assembly for use as a floor box, Lengyel is not concerned with a combined length of the recited components to approximately equal the width between form walls of a concrete structure. In fact, Lengyel discloses a conduit that goes through a cylindrical housing of a substantial height

to reach the electrical box. As a result, any combination of the measurements (widths) of the electrical box, cover, cylindrical housing, conduit disclosed by Lengyel would include double measurements. Thus, Lengyel is missing additional features from claim 8 and cannot anticipate independent claim 8 and its dependent claims 10-16. Withdrawal of the anticipation rejection is respectfully requested.

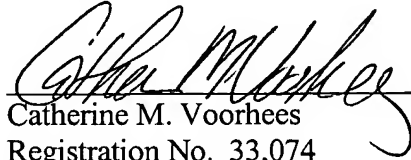
Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Lengyel in view of U.S. Patent No. 5,420,376 to Rajecki et al. (hereinafter referred to as "Rajecki") as explained in paragraph 5 spanning pages 5-6 of the Action. This rejection is respectfully traversed.

As argued in the Amendment filed October 18, 2004, Rajecki fails to disclose at least items 1-3 set forth above. Accordingly Rajecki cannot cure the defects of Lengyel. In addition, Rajecki is directed to a box assembly for a ceiling and thus, has different structural considerations than the floor box disclosed by Lengyel and that of the claimed invention. Consequently, it is respectfully submitted that one of ordinary skill in the art would not have been motivated to modify Lengyel to achieve the claim invention.

In view of the foregoing comments distinguishing the claimed invention from the prior art of record, it is believed that claims 1-16 are allowable over the prior art of record and Applicant requests withdrawal of the above rejections. Accordingly, it is respectfully requested that a Notice of Allowance be issued indicating that claims 1-16 are allowed over the prior art of record.

Should the Examiner believe that a conference would advance the prosecution of this application, the Examiner is encouraged to telephone the undersigned counsel to arrange such a conference.

Respectfully submitted,



Catherine M. Voorhees
Registration No. 33,074

VENABLE LLP

P.O. Box 34385

Washington, D.C. 20043-9998

Telephone: (202) 344-4000

Telefax: (202) 344-8300

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CMV/elw
DC2 /643947